

Exhibit B-6

Criminal Law of the People's Republic of China

(Adopted by the Second Session of the Fifth National People's Congress on July 1, 1979 and amended by the Fifth Session of the Eighth National People's Congress on March 14, 1997)

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*注：本篇法规已先后被

《中华人民共和国刑法修正案》（发布日期：1999年12月25日 实施日期：1999年12月25日）、

《中华人民共和国刑法修正案（二）》（发布日期：2001年8月31日 实施日期：2001年8月31日）、

《中华人民共和国刑法修正案（三）》（发布日期：2001年12月29日 实施日期：2001年12月29日）、

《中华人民共和国刑法修正案（四）》（发布日期：2002年12月28日 实施日期：2002年12月28日）、

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《中华人民共和国刑法修正案（六）》（发布日期：2006年6月29日 实施日期：2006年6月29日）、

《中华人民共和国刑法修正案（七）》（发布日期：2009年2月28日 实施日期：2009年2月28日）修正

*注：本篇法规已被《全国人民代表大会常务委员会关于修改部分法律的决定》（发布日期：2009年8月27日 实施日期：2009年8月27日）修改

【本法变迁史】

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中华人民共和国
刑法修正案[19991225]

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刑法修正案

(二)[20010831]

中华人民共和国
刑法修正案

(三)[20011229]

中华人民共和国
刑法修正案(四)

[20021228]

中华人民共和国
刑法修正案

(五)[20050228]

中华人民共和国
刑法修正案

(六)[20060629]

中华人民共和国
刑法修正案

(七)[20090228]

中华人民共和国主席令
(第八十三号)

(相关资料: 法律 63
篇 行政法规 68 篇 部门规
章 406 篇 司法解释 268
篇 其他规范性文件 45
篇 案例 102 篇 裁判文书
32645 篇 修订沿革 相关论
文 5544 篇 实务指南)

《中华人民共和国刑法》已由中华人民共和国第八届全国人民代表大会第五次会议于1997年3月14日修订,现将修订后的《中华人民共和国刑法》公布,自1997年10月1日起施行。

Social Administration

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Section 2. Crimes of Disrupting Justice

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Part I General Provisions

中华人民共和国主席江泽民

1997年3月14日

中华人民共和国刑法

(1979年7月1
日第五届全国人民代表大
会第二次会议通过

1997年3月14日
第八届全国人民代表大会
第五次会议修订)

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Chapter I Tasks, Basic Principles, and Scope of Application of the Criminal Law

Article 1. This law is formulated in accordance with the Constitution and in light of the concrete experience of China launching a struggle against crime and the realities in the country, with a view to punishing crime and protecting the people.

Article 2. The tasks of the PRC Criminal Law are to use punishment struggle against all criminal acts to defend national security, the political power of the people's democratic dictatorship, and the socialist system; to protect state-owned property and property collectively owned by the laboring masses; to protect citizens' privately owned property; to protect citizens' right of the person, democratic rights, and other rights; to maintain social and economic order; and to safeguard the smooth progress of the cause of socialist construction.

Article 3. Any act deemed by explicit stipulations of law as a crime is to be convicted and given punishment by law and any act that no explicit stipulations of law deems a crime is not to be convicted or given punishment.

Article 4. Every one is equal before the law in committing crime. No one is permitted to have privileges to transgress the law.

Article 5. The severity of punishments must be commensurate with the crime committed by an offender and the criminal responsibility he bears.

Article 6. This law is applicable to all who

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 第四节 数罪并罚
 第五节 缓刑
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 第四节 妨害文物管理罪
 第五节 危害公共卫生罪
 第六节 破坏环境资源保护罪
 第七节 走私、贩卖、运输、制造毒品罪
 第八节 组织、强迫、引诱、容留、介绍卖淫罪
 第九节 制作、贩卖、传

commit crimes within the territory of the PRC except as specially stipulated by law.

This law is also applicable to all who commit crimes aboard a ship or aircraft of the PRC.

When either the act or consequence of a crime takes place within PRC territory, a crime is deemed to have been committed within PRC territory.

Article 7. This law is applicable to PRC citizens who commit the crimes specified in this law outside the territory of the PRC; but those who commit the crimes, provided that this law stipulates a minimum sentence of less than a three-year fixed-term imprisonment for such crimes, may not be dealt with.

This law is applicable to PRC state personnel and military personnel who commit the crimes specified in this law outside PRC territory.

Article 8. This law may be applicable to foreigners, who outside PRC territory, commit crimes against the PRC state or against its citizens, provided that this law stipulates a minimum sentence of not less than a three-year fixed term of imprisonment for such crimes; but an exception is to be made if a crime is not punishable according the law of the place where it was committed.

Article 9. This law is applicable to the crimes specified in international treaties to which the PRC is a signatory state or with which it is a member and the PRC exercises criminal jurisdiction over such crimes within its treaty obligations.

Article 10. Any person who commits a crime

播淫秽物品罪
第七章 危害国防利益罪
第八章 贪污贿赂罪
第九章 渎职罪
第十章 军人违反职责罪
附则

第一编 总则

第一章 刑法的任务、基本原则和适用范围

第一条 【立法目的】为了惩罚犯罪，保护人民，根据宪法，结合我国同犯罪作斗争的具体经验及实际情况，制定本法。

（相关资料：[法律 1 篇](#) [部门规章 1 篇](#) [案例 1 篇](#) [裁判文书 23 篇](#) [修订沿革 条文释义](#) [相关论文 30 篇](#)）

第二条 【任务】中华人民共和国刑法的任务，是用刑罚同一切犯罪行为作斗争，以保卫国家安全，保卫人民民主专政的政权和社会主义制度，保护国有财产和劳动群众集体所有的财产，保护公民私人所有的财产，保护公民的人身权利、民主权利和其他权利，维护社会秩序、经济秩序，保障社会主义建设事业的顺利进行。

（相关资料：[案例 2 篇](#) [裁](#)

Article 308. Whoever resorts to persecution and retaliation against a witness is to be sentenced to not more than three years of fixed-term imprisonment or criminal detention; when the circumstances are severe, to not less than three years and not more than seven years of fixed-term imprisonment.

Article 309. Whoever gathers a crowd to make disturbances, charges a court, or beats judicial personnel, severely disturbs the order of a court is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, control or to be fined.

Article 310. Whoever provides a person who he clearly knows to be a convict with a hiding place, financial and material support, assists him to escape, hides, or protects him by falsifying evidence is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or control; when the circumstances are severe, to not less than three years but not more than ten years of fixed-term imprisonment.

Whoever commits a crime as stated in the previous paragraph and conspires in advance is to be punished as committing a joint crime.

Article 311. Whoever refuses to provide information, when the state's public security organs look into relevant situations and collect relevant evidence from him, about other people who he clearly knows have conducted criminal espionage activities is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or control if the circumstances are severe.

Article 312. Whoever conceals, transfers,

第二百六十五条

【盗窃罪】以牟利为目的，盗接他人通信线路、复制他人电信码号或者明知是盗接、复制的电信设备、设施而使用的，依照本法第二百六十四条的规定定罪处罚。

（相关资料：[司法解释 1 篇](#) [案例 1 篇](#) [裁判文书 7 篇](#) [条文释义](#) [相关论文 9 篇](#)）

第二百六十六条

【诈骗罪】诈骗公私财物，数额较大的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；数额巨大或者有其他严重情节的，处三年以上十年以下有期徒刑，并处罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产。本法另有规定的，依照规定。

（相关资料：[部门规章 1 篇](#) [司法解释 4 篇](#) [地方法规 3 篇](#) [案例 3 篇](#) [裁判文书 1062 篇](#) [条文释义](#) [相关论文 28 篇](#)）

第二百六十七条

【抢夺罪；抢劫罪】抢夺公私财物，数额较大的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；数额巨大或者有其他严重情节的，处三年以上十年以下有期徒刑，并处罚金；数额特别巨大或者有其他特别严重情节

purchases, or acts as an agent to sell something he clearly knows as booty which have been gained through committing a crime is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or control and may in addition or exclusively be sentenced to a fine.

Article 313. Whoever refuses to carry out a decision or order made by a people's court while he is able to carry it out is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or be fined if the circumstances are severe.

Article 314. Whoever hides, transfers, sells off, purposely destroys property which is already sealed, seized, or frozen is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or be fined if the circumstances are severe.

Article 315. Criminals who, in accordance with the law, are already under detention and perform one of the following acts which sabotage supervision order are to be sentenced to not more than three years of fixed-term imprisonment if the circumstances are severe:

- (1) beat supervising personnel;
- (2) organize other people under detention to sabotage supervision order;
- (3) assemble a crowd to make trouble, thereby disturbing normal supervision order;
- (4) beat, carry out corporal punishment on or instigate other people to beat, carry out corporal punishment on other people under detention.

Article 316. Criminals, defendants, criminal suspects who are already under detention in

的,处十年以上有期徒刑或者无期徒刑,并处罚金或者没收财产。

携带凶器抢夺的,依照本法第二百六十三条的规定定罪处罚。

(相关资料: [司法解释 3 篇](#) [地方法规 1 篇](#) [裁判文书 842 篇](#) [条文释义](#) [相关论文 18 篇](#))

第二百六十八条

【聚众哄抢罪】聚众哄抢公私财物,数额较大或者有其他严重情节的,对首要分子和积极参加的,处三年以下有期徒刑、拘役或者管制,并处罚金;数额巨大或者有其他特别严重情节的,处三年以上十年以下有期徒刑,并处罚金。

(相关资料: [司法解释 1 篇](#) [裁判文书 4 篇](#) [条文释义](#) [相关论文 5 篇](#))

第二百六十九条

【抢劫罪】犯盗窃、诈骗、抢夺罪,为窝藏赃物、抗拒抓捕或者毁灭罪证而当场使用暴力或者以暴力相威胁的,依照本法第二百六十三条的规定定罪处罚。

(相关资料: [司法解释 3 篇](#) [地方法规 1 篇](#) [裁判文书 472 篇](#) [修订沿革](#) [条文释义](#) [相关论文 25 篇](#))

第二百七十条 【侵占罪】将代为保管的他人财物非法占为己有,数额较大,拒不退还的,处二

accordance with the law and who escape are to be sentenced to not more than five years of fixed-term imprisonment or criminal detention.

Whoever seizes by force criminals, defendants, criminal suspects who are sent under escort is to be sentenced to not more than seven years of fixed-term imprisonment; when the circumstances are severe, to not less than seven years of fixed-term imprisonment.

Article 317. Whoever takes a lead in organizing an attempt to escape from a prison or whoever takes an active part in the attempt is to be sentenced to not less than five years of fixed-term imprisonment; others who participate in the attempt to not more than five years of fixed-term imprisonment or criminal detention.

Whoever takes a lead in staging a riot to escape from a prison or in assembling a crowd to open a prison with tools or whoever takes an active part in the attempt is to be sentenced to not less than ten years of fixed-term imprisonment or life imprisonment; when the circumstances are particularly severe, to death penalty; others who participate in the attempt to not less than three years and not more than ten years of fixed-term imprisonment.

Section 3. Crimes of Disrupting Administration of the Border

Article 318. Whoever organizes people to secretly cross the national boundary (border) shall be sentenced to not less than two years and not more than seven years of fixed-term

者罚金; 数额巨大或者有其他严重情节的, 处二年以上五年以下有期徒刑, 并处罚金。

将他人的遗忘物或者埋藏物非法占为己有, 数额较大, 拒不交出的, 依照前款的规定处罚。

本条罪, 告诉的才处理。

(相关资料: [司法解释 1 篇](#) [裁判文书 33 篇](#) [条文释义](#) [相关论文 24 篇](#))

第二百七十一条

【职务侵占罪; 贪污罪】公司、企业或者其他单位的人员, 利用职务上的便利, 将本单位财物非法占为己有, 数额较大的, 处五年以下有期徒刑或者拘役; 数额巨大的, 处五年以上有期徒刑, 可以并处没收财产。

国有公司、企业或者其他国有单位中从事公务的人员和国有公司、企业或者其他国有单位委派到非国有公司、企业以及其他单位从事公务的人员有前款行为的, 依照本法第三百八十二条、第三百八十三条的规定定罪处罚。

(相关资料: [部门规章 2 篇](#) [司法解释 6 篇](#) [地方法规 2 篇](#) [案例 4 篇](#) [裁判文书 522 篇](#) [条文释义](#) [相关论文 30 篇](#))

第二百七十二条

【挪用资金罪; 挪用公款罪】公司、企业或者其他单位的工作人员, 利用职

Order of the President of the People's
Republic of China

(No. 10)

The Amendment to the Criminal Law of the
People's Republic of China (VII), which was
adopted at the 7th session of the Standing
Committee of the 11th National People's
Congress of the People's Republic of China on
February 28, 2009, is hereby promulgated and
shall come into force on the date of
promulgation.

President of the People's Republic of China:
Hu Jintao

February 28, 2009

Amendment to the Criminal Law of the People's
Republic of China (VII)

(adopted at the 7th session of the Standing
Committee of the 11th National People's
Congress of the People's Republic of China on
February 28, 2009)

I. Paragraph 3 of Article 151 of the
Criminal Law is amended as:

“Whoever smuggles rare plants or their
products or any other goods or articles that
are prohibited by the state from being imported
or exported shall be sentenced to fixed-term
imprisonment not more than five years or
criminal detention, and/or be fined; or if the
circumstances are serious, shall be sentenced
to fixed-term imprisonment not less than five
years and be fined.”

II. Paragraph 1 of Article 180 of the

【本法变迁史】

中华人民共和国刑法
法[19790706]

中华人民共和国刑法
法(97 修订)[19970314]

中华人民共和国刑法
法修正案[19991225]

中华人民共和国刑法
法修正案(二)[20010831]

中华人民共和国刑法
法修正案(三)[20011229]

中华人民共和国刑法
法修正案(四)[20021228]

中华人民共和国刑法
法修正案(五)[20050228]

中华人民共和国刑法
法修正案(六)[20060629]

中华人民共和国刑法
法修正案(七)[20090228]

中华人民共和国主席令
(第十号)

(相关资料: 法律 1 篇 部
门规章 2 篇 司法解释 1
篇 其他规范性文件 1 篇 地
方法规 4 篇 裁判文书 6
篇 相关论文 26 篇)

《中华人民共和国刑法
修正案(七)》已由中华人
民共和国第十一届全国人
民代表大会常务委员会第七次
会议于 2009 年 2 月 28 日通
过, 现予公布, 自公布之日
起施行。

中华人民共和国主席 胡锦
涛

Criminal Law is amended as:

2009 年 2 月 28 日

“Whoever has inside information on securities or futures transactions or illegally obtains inside information on securities or futures transactions, and prior to the release of the information that involves the issuance of securities or securities or futures transactions or other information that has a material effect on the transaction price of securities or futures, buys or sells the said securities, engages in the futures transaction related to the inside information, leaks the said information, or explicitly or implicitly advises others to engage in the aforesaid transaction activities shall, if the circumstances are serious, be sentenced to fixed-term imprisonment not more than five years or criminal detention, and/or be fined 1 to 5 times the illegal gains; or if the circumstances are extremely serious, shall be sentenced to fixed-term imprisonment not less than five years but not more than ten years, and be fined 1 to 5 times the illegal gains.”

A paragraph is added as paragraph 4:

“Where any practitioner of a stock exchange, a futures exchange, a securities company, a futures brokerage company, a fund management company, a commercial bank, an insurance company or any other financial institution or any staff member of the relevant regulatory department or industry association uses any undisclosed information obtained by taking advantage of his position other than the inside information to engage in the securities or futures transaction activities related to the said information or explicitly or implicitly advise others to engage in the relevant transaction activities in violation of the

中华人民共和国刑法修正案
(七)

(2009 年 2 月 28 日第十一届全国人民代表大会常务委
员会第七次会议通过)

一、将刑法第一百五十一
条第三款修改为:“走私
珍稀植物及其制品等国家禁
止进出口的其他货物、物品
的,处五年以下有期徒刑或
者拘役,并处或者单处罚
金;情节严重的,处五年以
上有期徒刑,并处罚金。”

(相关资料: 司法解释 1
篇)

二、将刑法第一百八十
条第一款修改为:“证券、
期货交易内幕信息的知情
人员或者非法获取证券、期
货交易内幕信息的人员,在
涉及证券的发行,证券、期
货交易或者其他对证券、期
货交易价格有重大影响的信息
尚未公开前,买入或者卖出
该证券,或者从事与该内幕
信息有关的期货交易,或者
泄露该信息,或者明示、暗
示他人从事上述交易活动,
情节严重的,处五年以下有
期徒刑或者拘役,并处或者
单处违法所得一倍以上五倍
以下罚金;情节特别严重
的,处五年以上十年以下有
期徒刑,并处违法所得一倍
以上五倍以下罚金。”

relevant provisions, and the circumstances are serious, he shall be punished under paragraph 1.”

III. Article 201 of the Criminal Law is amended as:

“Where any taxpayer files false tax returns by cheating or concealment or fails to file tax returns, and the amount of evaded taxes is relatively large and accounts for more than 10 percent of payable taxes, he shall be sentenced to fixed-term imprisonment not more than three years or criminal detention, and be fined; or if the amount is huge and accounts for more than 30 percent of payable taxes, shall be sentenced to fixed-term imprisonment not less than three years but not more than seven years, and be fined.

Where any withholding agent fails to pay or fails to pay in full the withheld or collected taxes by cheating or concealment, and the amount is relatively large, he shall be punished under the preceding paragraph.

Where either of the acts described in the preceding two paragraphs is committed many times without punishment, the amount shall be calculated on an accumulated basis.

Where any taxpayer who committed the act as described in paragraph 1 has made up the payable taxes and paid the late fine after the tax authority sent down the notice of tax recovery according to law, and has been administratively punished, he shall not be subject to criminal liability, except one who has been criminally punished in five years for evading tax payment or has been, twice or more, administratively punished by the tax

增加一款作为第四款：
“证券交易所、期货交易所、证券公司、期货经纪公司、基金管理公司、商业银行、保险公司等金融机构的从业人员以及有关监管部门或者行业协会的工作人员，利用因职务便利获取的内幕信息以外的其他未公开的信息，违反规定，从事与该信息相关的证券、期货交易活动，或者明示、暗示他人从事相关交易活动，情节严重的，依照第一款的规定处罚。”

（相关资料：司法解释 1 篇 相关论文 2 篇）

三、将刑法第二百零一条修改为：“纳税人采取欺骗、隐瞒手段进行虚假纳税申报或者不申报，逃避缴纳税款数额较大并且占应纳税额百分之十以上的，处三年以下有期徒刑或者拘役，并处罚金；数额巨大并且占应纳税额百分之三十以上的，处三年以上七年以下有期徒刑，并处罚金。

“扣缴义务人采取前款所列手段，不缴或者少缴已扣、已收税款，数额较大的，依照前款的规定处罚。

“对多次实施前两款行为，未经处理的，按照累计数额计算。

“有第一款行为，经税务机关依法下达追缴通知

authorities.”

IV. An Article is inserted after Article 224 of the Criminal Law as Article 224 (A):

“Whoever organizes or leads the pyramid selling activities to cheat the participants of property and disturb the economic and social order, in which, in the name of marketing commodities, providing services or any other business operation, the participants are required to obtain the qualification for participation by paying fees, purchasing commodities or services or any other means, the participants are classified into different levels according to a certain order, the calculation of remunerations or kickbacks to participants is directly or indirectly dependent on the number of persons recruited, and the participants are induced to continue or coerced into continuing recruiting others to participate, shall be sentenced to fixed-term imprisonment not more than five years or criminal detention, and be fined; or if the circumstances are serious, shall be sentenced to fixed-term imprisonment not less than five years, and be fined.”

V. Subparagraph (3) of Article 225 of the Criminal Law is amended as:

“illegally operating the business of securities, futures or insurance, or illegally engaging in fund payment and settlement business, without the approval of the relevant competent departments of the state;”

VI. Article 239 of the Criminal Law is amended as:

“Whoever abducts another person for extortion

后, 补缴应纳税款, 缴纳滞纳金, 已受行政处罚的, 不予追究刑事责任; 但是, 五年内因逃避缴纳税款受过刑事处罚或者被税务机关给予二次以上行政处罚的除外。”

(相关资料: 司法解释 1 篇 相关论文 2 篇)

四、在刑法第二百二十四条后增加一条, 作为第二百二十四条之一: “组织、领导以推销商品、提供服务等经营活动为名, 要求参加者以缴纳费用或者购买商品、服务等方式获得加入资格, 并按照一定顺序组成层级, 直接或者间接以发展人员的数量作为计酬或者返利依据, 引诱、胁迫参加者继续发展他人参加, 骗取财物, 扰乱经济社会秩序的传销活动的, 处五年以下有期徒刑或者拘役, 并处罚金; 情节严重的, 处五年以上有期徒刑, 并处罚金。”

(相关资料: 司法解释 1 篇 相关论文 2 篇)

五、将刑法第二百二十五条第三项修改为: “未经国家有关主管部门批准非法经营证券、期货、保险业务的, 或者非法从事资金支付结算业务的; ”

(相关资料: 相关论文 1 篇)

六、将刑法第二百三十九条修改为: “以勒索财物

or abducts another person as a hostage shall be sentenced to fixed-term imprisonment not less than ten years or life imprisonment, and be fined or be sentenced to confiscation of property; or if the circumstances are less serious, shall be sentenced to fixed-term imprisonment not less than five years but not more than ten years, and be fined.

Whoever commits the crime as described in the preceding paragraph and causes the death of the abducted person or kills the abducted person shall be sentenced to death and confiscation of property.

Whoever steals an infant for extortion shall be punished under the preceding two paragraphs.”

VII. An Article is inserted after Article 253 of the Criminal Law as Article 253 (A):

“Where any staff member of a state organ or an entity in such a field as finance, telecommunications, transportation, education or medical treatment, in violation of the state provisions, sells or illegally provides personal information on citizens, which is obtained during the organ’s or entity’s performance of duties or provision of services, to others shall, if the circumstances are serious, be sentenced to fixed-term imprisonment not more than three years or criminal detention, and/or be fined.

Whoever illegally obtains the aforesaid information by stealing or any other means shall, if the circumstances are serious, be punished under the preceding paragraph.

Where any entity commits either of the crimes as described in the preceding two paragraphs,

为目的绑架他人的，或者绑架他人作为人质的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产；情节较轻的，处五年以上十年以下有期徒刑，并处罚金。

“犯前款罪，致使被绑架人死亡或者杀害被绑架人的，处死刑，并处没收财产。

“以勒索财物为目的偷盗婴幼儿的，依照前两款的规定处罚。”

（相关资料：裁判文书2篇 相关论文1篇）

七、在刑法第二百五十三条后增加一条，作为第二百五十三条之一：“国家机关或者金融、电信、交通、教育、医疗等单位的工作人员，违反国家规定，将本单位在履行职责或者提供服务过程中获得的公民个人信息，出售或者非法提供给他人，情节严重的，处三年以下有期徒刑或者拘役，并处或者单处罚金。

“窃取或者以其他方法非法获取上述信息，情节严重的，依照前款的规定处罚。

“单位犯前两款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照各该款的

it shall be fined, and the direct liable person 规定处罚。”
in charge and other directly liable persons
shall be punished under the applicable
paragraph.”

VIII. An Article is inserted after Article 262 (A) of the Criminal Law as Article 262 (B):

“Whoever organizes minors to commit theft, fraud, snatch, extortion or any other activity in violation of the public security administration shall be sentenced to fixed-term imprisonment not more than three years or criminal detention, and be fined; or if the circumstances are serious, shall be sentenced to fixed-term imprisonment not less than three years but not more than seven years, and be fined.”

IX. Two paragraphs are inserted into Article 285 of the Criminal Law as paragraphs 2 and 3:

“Whoever, in violation of the state provisions, intrudes into a computer information system other than that prescribed in the preceding paragraph or uses other technical means to obtain the data stored, processed or transmitted in the said computer information system or exercise illegal control over the said computer information system shall, if the circumstances are serious, be sentenced to fixed-term imprisonment not more than three years or criminal detention, and/or be fined; or if the circumstances are extremely serious, shall be sentenced to fixed-term imprisonment not less than three years but not more than seven years, and be fined.

Whoever provides special programs or tools specially used for intruding into or illegally controlling computer information systems, or

(相关资料: 司法解释 1 篇 相关论文 1 篇)

八、在刑法第二百六十二条之一后增加一条, 作为第二百六十二条之二: “组织未成年人进行盗窃、诈骗、抢夺、敲诈勒索等违反治安管理活动的, 处三年以下有期徒刑或者拘役, 并处罚金; 情节严重的, 处三年以上七年以下有期徒刑, 并处罚金。”

(相关资料: 司法解释 1 篇 裁判文书 1 篇 相关论文 2 篇)

九、在刑法第二百八十五条中增加两款作为第二款、第三款: “违反国家规定, 侵入前款规定以外的计算机信息系统或者采用其他技术手段, 获取该计算机信息系统中存储、处理或者传输的数据, 或者对该计算机信息系统实施非法控制, 情节严重的, 处三年以下有期徒刑或者拘役, 并处或者单处罚金; 情节特别严重的, 处三年以上七年以下有期徒刑, 并处罚金。

“提供专门用于侵入、非法控制计算机信息系统的程序、工具, 或者明知他人实施侵入、非法控制计算机信息系统的违法犯罪行为而为其提供程序、工具, 情节严重的, 依照前款的规定处罚。”

whoever knows that any other person is committing the criminal act of intruding into or illegally controlling a computer information system and still provides programs or tools for such a person shall, if the circumstances are serious, be punished under the preceding paragraph.”

X. A paragraph is inserted into Article 312 of the Criminal Law as paragraph 2:

“Where any entity commits the crime as described in the preceding paragraph, it shall be fined, and the direct liable person in charge and other directly liable persons shall be punished under the preceding paragraph.”

XI. Paragraph 1 of Article 337 of the Criminal Law is amended as:

“Whoever, in violation of the relevant state provisions on animal and plant epidemic prevention and quarantine, causes a serious animal or plant epidemic or the risk of a serious animal or plant epidemic shall, if the circumstances are serious, be sentenced to fixed-term imprisonment not more than three years or criminal detention, and/or be fined.”

XII. Paragraph 2 of Article 375 of the Criminal Law is amended as:

“Whoever illegally produces, buys, or sells uniforms of the armed forces shall, if the circumstances are serious, be sentenced to fixed-term imprisonment not more than three years, criminal detention or public surveillance, and/or be fined.”

A paragraph is added as paragraph 3:

(相关资料: 司法解释 1 篇)

十、在刑法第三百一十二条中增加一款作为第二款: “单位犯前款罪的, 对单位判处罚金, 并对其直接负责的主管人员和其他直接责任人员, 依照前款的规定处罚。”

(相关资料: 相关论文 1 篇)

十一、将刑法第三百三十七条第一款修改为: “违反有关动植物防疫、检疫的国家规定, 引起重大动植物疫情的, 或者有引起重大动植物疫情危险, 情节严重的, 处三年以下有期徒刑或者拘役, 并处或者单处罚金。”

(相关资料: 司法解释 1 篇 相关论文 1 篇)

十二、将刑法第三百七十五条第二款修改为: “非法生产、买卖武装部队制式服装, 情节严重的, 处三年以下有期徒刑、拘役或者管制, 并处或者单处罚金。”

增加一款作为第三款: “伪造、盗窃、买卖或者非法提供、使用武装部队车辆号牌等专用标志, 情节严重的, 处三年以下有期徒刑、拘役或者管制, 并处或者单处罚金; 情节特别严重的, 处三年以上七年以下有期徒刑, 并处罚金。”

“Whoever forges, steals, buys, sells, or illegally provides or uses license plates of vehicles or other special signs of the armed forces shall, if the circumstances are serious, be sentenced to fixed-term imprisonment not more than three years, criminal detention or public surveillance, and/or be fined; or if the circumstances are extremely serious, shall be sentenced to fixed-term imprisonment not less than three years but not more than seven years, and be fined.”

The former paragraph 3 is changed into paragraph 4 and is amended as:

“Where any entity commits the crime in paragraph 2 or 3, it shall be fined, and the direct liable person in charge and other directly liable persons shall be punished under the applicable paragraph.”

XIII. An Article is inserted after Article 388 of the Criminal Law as Article 388 (A):

“Where any close relative of a state functionary or any other person who has a close relationship with the said state functionary seeks any improper benefit for a requester for such a benefit through the official act of the said state functionary or through the official act of any other state functionary by using the advantages generated from the authority or position of the said state functionary, and asks or accepts property from the requester for such a benefit, and the amount is relatively large or there is any other relatively serious circumstance, he shall be sentenced to fixed-term imprisonment not more than three years or criminal detention, and be fined; if the amount is huge or there is any other serious circumstance, shall be sentenced to fixed-term

原第三款作为第四款，修改为：“单位犯第二款、第三款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照各该款的规定处罚。”

（相关资料：司法解释 1 篇）

十三、在刑法第三百八十八条后增加一条作为第三百八十八条之一：“国家工作人员的近亲属或者其他与该国家工作人员关系密切的人，通过该国家工作人员职务上的行为，或者利用该国家工作人员职权或者地位形成的便利条件，通过其他国家工作人员职务上的行为，为请托人谋取不正当利益，索取请托人财物或者收受请托人财物，数额较大或者有其他较重情节的，处三年以下有期徒刑或者拘役，并处罚金；数额巨大或者有其他严重情节的，处三年以上七年以下有期徒刑，并处罚金；数额特别巨大或者有其他特别严重情节的，处七年以上有期徒刑，并处罚金或者没收财产。”

“离职的国家工作人员或者其近亲属以及其他与其关系密切的人，利用该离职的国家工作人员原职权或者地位形成的便利条件实施前款行为的，依照前款的规定定罪处罚。”

imprisonment not less than three years but not more than seven years, and be fined; or if the amount is extremely huge or there is any other extremely serious circumstance, shall be sentenced to fixed-term imprisonment not less than seven years, and be fined or be sentenced to confiscation of property.

Where any state functionary who has left his position, any close relative of him or any other person who has a close relationship with him commits the act as prescribed in the preceding paragraph by using the advantages generated from the former authority or position of the said state functionary, he shall be convicted and punished under the preceding paragraph. ”

XIV. Paragraph 1 of Article 395 of the Criminal Law is amended as:

“Where the property or expenditure of any state functionary obviously exceeds his legitimate income, and the difference is huge, he shall be ordered to explain the sources. If he fails to do so, the difference shall be determined as illegal income, and he shall be sentenced to fixed-term imprisonment not more than five years or criminal detention; or if the difference is extremely huge, shall be sentenced to fixed-term imprisonment not less than five years but not more than ten years. The difference of the property shall be recovered. ”

XV. This Amendment shall come into force on the date of promulgation.

(相关资料: 司法解释 1 篇 相关论文 3 篇)

十四、将刑法第三百九十五条第一款修改为: “国家工作人员的财产、支出明显超过合法收入, 差额巨大的, 可以责令该国家工作人员说明来源, 不能说明来源的, 差额部分以非法所得论, 处五年以下有期徒刑或者拘役; 差额特别巨大的, 处五年以上十年以下有期徒刑。财产的差额部分予以追缴。”

(相关资料: 相关论文 2 篇)

十五、本修正案自公布之日起施行。

chl_113979

中华人民共和国主席令
(第十号)

《中华人民共和国刑法修正案(七)》已由中华人民共和国第十一届全国人民代表大会常务委员会第七次会议于 2009 年 2 月 28 日通过, 现予公布, 自公布之日起施行。

中华人民共和国主席 胡锦涛
2009 年 2 月 28 日

中华人民共和国刑法修正案
(七)

(2009 年 2 月 28 日第十一届全国人民代表大会常务委

员会第七次会议通过)

(相关资料: 相关论文 1 篇)

一、将刑法第一百五十一条第三款修改为:“走私珍稀植物及其制品等国家禁止进出口的其他货物、物品的,处五年以下有期徒刑或者拘役,并处或者单处罚金;情节严重的,处五年以上有期徒刑,并处罚金。”

二、将刑法第一百八十条第一款修改为:“证券、期货交易内幕信息的知情人员或者非法获取证券、期货交易内幕信息的人员,在涉及证券的发行,证券、期货交易或者其他对证券、期货交易价格有重大影响的信息尚未公开前,买入或者卖出该证券,或者从事与该内幕信息有关的期货交易,或者泄露该信息,或者明示、暗示他人从事上述交易活动,情节严重的,处五年以下有期徒刑或者拘役,并处或者单处违法所得一倍以上五倍以下罚金;情节特别严重的,处五年以上十年以下有期徒刑,并处违法所得一倍以上五倍以下罚金。”

增加一款作为第四款:
“证券交易所、期货交易所、证券公司、期货经纪公司、基金管理公司、商业银行、保险公司等金融机构的从业人员以及有关监管部门

或者行业协会的工作人员，利用因职务便利获取的内幕信息以外的其他未公开的信息，违反规定，从事与该信息相关的证券、期货交易活动，或者明示、暗示他人从事相关交易活动，情节严重的，依照第一款的规定处罚。”

三、将刑法第二百零一条修改为：“纳税人采取欺骗、隐瞒手段进行虚假纳税申报或者不申报，逃避缴纳税款数额较大并且占应纳税额百分之十以上的，处三年以下有期徒刑或者拘役，并处罚金；数额巨大并且占应纳税额百分之三十以上的，处三年以上七年以下有期徒刑，并处罚金。

“扣缴义务人采取前款所列手段，不缴或者少缴已扣、已收税款，数额较大的，依照前款的规定处罚。

“对多次实施前两款行为，未经处理的，按照累计数额计算。

“有第一款行为，经税务机关依法下达追缴通知后，补缴应纳税款，缴纳滞纳金，已受行政处罚的，不予追究刑事责任；但是，五年内因逃避缴纳税款受过刑事处罚或者被税务机关给予二次以上行政处罚的除外。”

四、在刑法第二百二十四条后增加一条，作为第二百二十四条之一：“组织、领导以推销商品、提供服务等经营活动为名，要求参加者以缴纳费用或者购买商品、服务等方式获得加入资格，并按照一定顺序组成层级，直接或者间接以发展人员的数量作为计酬或者返利依据，引诱、胁迫参加者继续发展他人参加，骗取财物，扰乱经济社会秩序的传销活动的，处五年以下有期徒刑或者拘役，并处罚金；情节严重的，处五年以上有期徒刑，并处罚金。”

五、将刑法第二百二十五条第三项修改为：“未经国家有关主管部门批准非法经营证券、期货、保险业务的，或者非法从事资金支付结算业务的；”

六、将刑法第二百三十九条修改为：“以勒索财物为目的绑架他人的，或者绑架他人作为人质的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产；情节较轻的，处五年以上十年以下有期徒刑，并处罚金。

“犯前款罪，致使被绑架人死亡或者杀害被绑架人的，处死刑，并处没收财产。

“以勒索财物为目的偷

盗婴幼儿的，依照前两款的规定处罚。”

七、在刑法第二百五十三条后增加一条，作为第二百五十三条之一：“国家机关或者金融、电信、交通、教育、医疗等单位的工作人员，违反国家规定，将本单位在履行职责或者提供服务过程中获得的公民个人信息，出售或者非法提供给他人，情节严重的，处三年以下有期徒刑或者拘役，并处或者单处罚金。

“窃取或者以其他方法非法获取上述信息，情节严重的，依照前款的规定处罚。

“单位犯前两款罪的，对单位处罚金，并对其直接负责的主管人员和其他直接责任人员，依照各该款的规定处罚。”

八、在刑法第二百六十二条之一后增加一条，作为第二百六十二条之二：“组织未成年人进行盗窃、诈骗、抢夺、敲诈勒索等违反治安管理活动的，处三年以下有期徒刑或者拘役，并处罚金；情节严重的，处三年以上七年以下有期徒刑，并处罚金。”

九、在刑法第二百八十五条中增加两款作为第二款、第三款：“违反国家规定，侵入前款规定以外的计

算机信息系统或者采用其他技术手段，获取该计算机信息系统中存储、处理或者传输的数据，或者对该计算机信息系统实施非法控制，情节严重的，处三年以下有期徒刑或者拘役，并处或者单处罚金；情节特别严重的，处三年以上七年以下有期徒刑，并处罚金。

“提供专门用于侵入、非法控制计算机信息系统的程序、工具，或者明知他人实施侵入、非法控制计算机信息系统的违法犯罪行为而为其提供程序、工具，情节严重的，依照前款的规定处罚。”

十、在刑法第三百一十二条中增加一款作为第二款：“单位犯前款罪的，对单位处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。”

十一、将刑法第三百三十七条第一款修改为：“违反有关动植物防疫、检疫的国家规定，引起重大动植物疫情的，或者有引起重大动植物疫情危险，情节严重的，处三年以下有期徒刑或者拘役，并处或者单处罚金。”

十二、将刑法第三百七十五条第二款修改为：“非法生产、买卖武装部队制式服装，情节严重的，处三年

以下有期徒刑、拘役或者管制，并处或者单处罚金。”

增加一款作为第三款：
“伪造、盗窃、买卖或者非法提供、使用武装部队车辆号牌等专用标志，情节严重的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；情节特别严重的，处三年以上七年以下有期徒刑，并处罚金。”

原第三款作为第四款，修改为：“单位犯第二款、第三款罪的，对单位处罚金，并对其直接负责的主管人员和其他直接责任人员，依照各该款的规定处罚。”

十三、在刑法第三百八十八条后增加一条作为第三百八十八条之一：“国家工作人员的近亲属或者其他与该国家工作人员关系密切的人，通过该国家工作人员职务上的行为，或者利用该国家工作人员职权或者地位形成的便利条件，通过其他国家工作人员职务上的行为，为请托人谋取不正当利益，索取请托人财物或者收受请托人财物，数额较大或者有其他较重情节的，处三年以下有期徒刑或者拘役，并处罚金；数额巨大或者有其他严重情节的，处三年以上七年以下有期徒刑，并处罚金；数额特别巨大或者有其他特别严重情节的，处七年以上有期徒刑，并处罚金或

者没收财产。

“离职的国家工作人员或者其近亲属以及其他与其关系密切的人，利用该离职的国家工作人员原职权或者地位形成的便利条件实施前款行为的，依照前款的规定定罪处罚。”

十四、将刑法第三百九十五条第一款修改为：“国家工作人员的财产、支出明显超过合法收入，差额巨大的，可以责令该国家工作人员说明来源，不能说明来源的，差额部分以非法所得论，处五年以下有期徒刑或者拘役；差额特别巨大的，处五年以上十年以下有期徒刑。财产的差额部分予以追缴。”

十五、本修正案自公布之日起施行。

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